



JANE SWIFT  
Governor

COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Central Regional Office, 627 Main Street, Worcester, MA 01608

SDMS DocID 556412

Superfund Records Center  
SITE: Covitch Property  
BREAK: 11.5  
OTHER: 556412

BOB DURAND  
Secretary

LAUREN A. LISS  
Commissioner

**CERTIFIED MAIL: RETURN RECEIPT REQUESTED**

JAN 23 2002

Arcade Realty Trust  
1 Main Street  
Whitinsville, MA 01588

Re: CRWSC - Northbridge  
ATF-Davidson  
1 Main Street

Attention: Leonard Jolles,  
Property Manager

RTN 2-00111  
NON-CE-01-3103

**NOTICE OF NONCOMPLIANCE**  
**M.G.L. c. 21E, 310 CMR 40.0000**

**FAILURE TO MEET PHASE I PERFORMANCE STANDARDS**  
**FAILURE TO MEET RAO PERFORMANCE STANDARDS**  
**FAILURE TO MEET MINIMUM PUBLIC NOTICE REQUIREMENTS**

Dear Mr. Jolles:

A review of records conducted by Department of Environmental Protection ("Department") personnel demonstrates that the above-referenced site is not in compliance with one or more laws, regulations, orders, licenses, permits, or approvals enforced by the Department. Be advised that the regulations that generally set forth the requirements for Phase I Reports, Response Action Outcomes, and Public Involvement are codified at Subparts D, J, and N of the Massachusetts Contingency Plan, 310 CMR 40.0400, 310 CMR 40.1000, and 310 CMR 40.1400, respectively.

The Department has included with and specifically incorporated into this writing a NOTICE OF NONCOMPLIANCE SUMMARY, which includes:

- (1) the requirements applicable to the response actions undertaken at, 1 Main Street, Northbridge, Massachusetts ("the Site");
- (2) the elements and occurrence(s) of the noncompliance necessitating the issuance of this Notice; and
- (3) the deadline(s) within which a return to compliance must be achieved, either by:

This information is available in alternate format by calling our ADA Coordinator at (617) 574-6872.

<http://www.state.ma.us/dep> • Phone (508) 792-7650 • Fax (508) 792-7621 • TDD # (508) 767-2788

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- (i) coming into compliance with the applicable requirements, or
- (ii) the submission of a written proposal to the Department setting forth how and when coming into compliance with the requirements will be achieved.

An administrative penalty may be assessed for every day from now on that you remain out of compliance with the requirements described in this Notice of Noncompliance. Notwithstanding this Notice of Noncompliance, the Department reserves the right to exercise the full extent of its legal authority in order to obtain full compliance with all applicable legal requirements, including but not limited to the assessment of civil administrative penalties, the commencement of a civil action in the court(s) of competent jurisdiction, or the commencement of a criminal prosecution in the court(s) of competent jurisdiction.

Please contact Mr. James Moody of the Central Regional Office at (508) 792-7650 x2703 if you have any questions or comments, or there is any ambiguity or confusion concerning this Notice. In responding to this Notice of Noncompliance, please reference the NON number found on the first page of this document to ensure proper acknowledgment of your response.

Sincerely,

JAN 23 2002  
Date: \_\_\_\_\_

  
Edmond G. Benoit  
Deputy Regional Director  
Bureau of Waste Site Cleanup

enclosure: NON Summary  
EGB\MKG\MEB\GLR

cc: Town of Northbridge, Board of Health  
Town of Northbridge, Board of Selectmen  
Neal Drawas, Kroll Associates, Inc., 900 Third Avenue, New York, NY 10022  
Thomas Potter, Audit Coordinator, BWSC, DEP-Boston  
Office of Enforcement, DEP- Boston  
James Moody, Enforcement Coordinator, BWSC, DEP-CERO  
Daniel Hannon, Permits/Site Management, DEP-CERO  
Michael Maher, Enforcement Coordinator, DEP-CERO  
Nancy Smith, USEPA ✓  
Data Entry: [ C&E/NON AUDINS/NAFNON AUDCO/NON ]

**NOTICE OF NONCOMPLIANCE SUMMARY**  
**NON-CE-01-3103**

**ENTITY IN NONCOMPLIANCE**

Arcade Realty Trust

**LOCATION WHERE NONCOMPLIANCE OCCURRED OR WAS OBSERVED**

1 Main Street, Northbridge, Massachusetts

**DATE(S) WHEN NONCOMPLIANCE OCCURRED OR WAS OBSERVED**

December 18, 1998

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**I. FAILURE TO MEET PHASE I PERFORMANCE STANDARDS, 310 CMR  
40.0482**

**DESCRIPTION OF ACTIVITY OR OMISSION IN NONCOMPLIANCE**

The Phase I report site plan had omissions that included: illustrated site boundaries, subsurface utilities, legible denotations of monitoring wells, sediment sampling locations, floor and storm drain locations, general areas of oil and hazardous material (OHM) releases. The report also did not include a history of hazardous material usage, a list of permits and environmental compliance history, an estimate of population within ½ mile of the site, the number of institutions within 500 feet of the site, and names and addresses of all potentially responsible parties.

Citing a 1985 report, the Phase I attributes significant levels of chromium in Mumford River sediments to the ATF-Davidson property (p. 8) or other upgradient source, but no subsequent investigation was conducted for chromium. Review of file materials for the audit did not reveal any indication of soil or groundwater analysis for heavy metals besides barium. Information in the file indicates that electroplating rinsewaters may have been disposed at the site, thus suggesting the potential for an on-site source. Sediment data from 1985 indicated the presence of chromium at concentrations of 64 ug/g, 410 ug/g, 250 ug/g, 400 ug/g, and 100 ug/g, in the river. No current sediment data was collected for the report.

The Phase I included a table of soil and groundwater data collected in 1996 and 1997, however, no chain of custody, nor laboratory analytical reports were included. No analytical method was specified.

The portion of the report pertaining to nature and extent of contamination was general discussion of levels of contamination and trends; no specific information was included that indicated where the approximate limits of the contamination were located.

## **DESCRIPTION OF REQUIREMENTS IN NONCOMPLIANCE**

### **310 CMR 40.0482: Performance Standards**

A Phase I Report shall provide sufficient information to meet the requirements of the Numerical Ranking System and Tier Classification process described in 310 CMR 40.0500 or, where appropriate, support a Response Action Outcome Statement filed for a site prior to Tier Classification.

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## **II. FAILURE TO MEET RESPONSE ACTION OUTCOME PERFORMANCE STANDARDS, 310 CMR 40.1004**

### **DESCRIPTION OF ACTIVITY OR OMISSION IN NONCOMPLIANCE**

The Response Action Outcome Statement (RAO) and supporting risk characterization were inadequate to meet RAO performance standards per 310 CMR 40.1004 in the following ways:

1. The MCP requires the use of Method 2 or 3 if contamination is present in significant concentrations in media other than soil or groundwater. Because chromium exists in river sediments and there is a potential that plating operations could be a source of the wastes, Method 1 cannot be utilized for the risk characterization unless another demonstration is made pursuant to relative risks to receptors, per 310 CMR 40.0942.
2. No exposure points were identified.
3. No exposure point concentrations were calculated.
4. The extent of the release was not indicated per 310 CMR 40.0904(2).
5. There was no characterization of the OHM per 310 CMR 40.0904(3).
6. The Phase I recommends continued groundwater sampling for two to three years to ensure continued reduction of contaminant concentration levels, however, no full round of groundwater samples were collected subsequently.

Failure to meet RAO Performance Standards is a Class II violation.

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## **III. FAILURE TO MEET PUBLIC NOTICE REQUIREMENTS, 310 CMR 40.0485, 40.1403 & 40.1404**

### **DESCRIPTION OF ACTIVITY OR OMISSION IN NONCOMPLIANCE**

- A. No notice to public officials regarding the availability of the Phase I and Tier Classification was found in files available to the Department, per 310 CMR 40.1403(6)(b).

- B. A copy of a legal notice draft was included in the Response Action Outcome, however, the Department requires a clipping from the newspaper or invoice as verification within seven (7) days of publication, per 310 CMR 40.1403(6)(b).
- C. No copy of a notice to public officials regarding the availability of the RAO was found in the Department's files, per 310 CMR 40.1403(f) and 40.1404(4).

Failure to meet minimum public notice requirements is a Class II violation.

### **DESCRIPTION OF REQUIREMENTS IN NONCOMPLIANCE**

#### **310 CMR 40.1403: Minimum Public Involvement Activities in Response Actions**

(3) At any time after the Department has been notified of a release or threat of release pursuant to 310 CMR 40.0300, the Chief Municipal Officer and Board of Health in the community(ies) in which the disposal site is located and in any other communities which are, or are likely to be, affected by the disposal site shall be notified of:

(e) the availability of any Response Action Outcome Statements filed pursuant to 310 CMR 40.1000.

1. Notification may take the form of copies of correspondence which contain or summarize decisions regarding the Statement or a notice of the availability of the Statement.

(4) Notifications required by 310 CMR 40.1403(3)(a), (b), and (d) may be made orally or in writing. Notifications required by 310 CMR 40.1403(3)(c), (e), (f), and (g) shall be made in writing.

(a) Oral notifications shall be followed by written notice within seven days of the oral notification.

(b) A copy of each written notice shall be submitted to the Department concurrently with its filing with the Chief Municipal Officer and Board of Health.

(6) Following Tier Classification or reclassification pursuant to 310 CMR 40.0510, the following actions shall be taken to inform the public about the status of the disposal site's classification:

(b) at least three days prior to publication of the legal notice, a copy of the notice shall be sent to the Chief Municipal Officer and the Board of Health in the community(ies) in which the disposal site is located and in any other communities which are, or are likely to be, affected by the disposal site. If the Department does not publish the legal notice, then a copy of the legal notice which includes the date of publication and the name of the newspaper, and a copy of the cover letter to the Chief Municipal Officer and Board of Health, shall be submitted to the Department within seven days of publication of the legal notice; and

**DESCRIPTION OF DEADLINES OF ACTION TO BE TAKEN**


An Audit Follow-up Plan to meet the requirements of a Phase II Scope of Work should be submitted to the Department by **March 1, 2002**. Please note that the site was tier classified on March 12, 1997, therefore, the Tier II classification is in effect until March 11, 2002. Sixty days prior to expiration of the Tier II classification, you should submit a Tier II extension request using form BWSC-107. In order for response actions to continue, a retraction of the Response Action Outcome Statement is necessary. The RAO retraction should be completed by **March 1, 2002**.

A Phase II – Comprehensive Site Assessment and a Phase III Remedial Alternatives Plan, if applicable or RAO should be submitted by **October 1, 2002**. A Phase IV Remedy Implementation Plan, if applicable, or an RAO should be submitted by **January 1, 2003**. Should Phase V activities be required, an RAO should be submitted no later than **December 31, 2003**.

Notify municipal officials of the availability of the Phase I – Limited Site Investigation and of the requirement to file a Tier II Extension to retain Tier II status beyond the March 11, 2001 expiration date by **March 1, 2002**. Copy the municipal correspondence to the Department within one week of mailing to the officials. Notify municipal officials of the availability of the Phase II report and upon completion of all subsequent Phase reports. The Department should be copied on these notices, also. Notify municipal officials upon re-filing an RAO in the future.

Sincerely,

JAN 23 2002  
Date \_\_\_\_\_

  
Edmond G. Benoit  
Deputy Regional Director  
Bureau of Waste Site Cleanup